

Remarks

The Office Action mailed November 24, 2004 has been carefully reviewed and the following remarks have been made in consequence thereof.

Claims 1-4 and 6-20 are now pending in this application. Claims 1-3 and 6-20 are rejected. Claim 4 is objected to but has been indicated as containing allowable subject matter. Claims 1, 4, 7, 8, 12, 16, and 19 have been amended. No new matter has been added.

A fee calculation sheet for independent Claim 4 and an authorization to charge a deposit account in the amount of the calculated fee are submitted herewith.

The rejection of Claims 1-4 and 6-20 under 35 U.S.C. § 103(a) as being unptentable over Sullivan II, et al. (U.S. Patent No. 4,324,987) in view of Blackett et al. (U.S. Patent No. 6,751,562) is respectfully traversed. Applicant respectfully notes that Claim 4 is objected to and includes allowable subject matter. Accordingly, Applicant proceeds as if Claims 1-3 and 6-20 are rejected under 35 U.S.C. § 103(a) as being unptentable over Sullivan II, et al. in view of Blackett et al.

Sullivan II, et al. describe a program for optimizing shed/restore operations for electrical loads. If it is determined that shedding of a present low priority load (LPL) will not make sufficient power space available to allow restoring of a present high priority load (HPL), then the program sets certain loop parameters to values which subsequently will effect shedding of the present LPL (column 20, lines 29-34). The program then increments LPL (column 20, lines 34-36). After load numbers of a sufficient number of previously restored loads to allow restoring of the present HPL have been obtained, the program sets certain program loop parameters to values which will effect shedding the "selected" low priority loads (column 20, lines 36-44). Then the program obtains a current average power reading from a digital-to-analog converter (DAC) table and stores that value in a temporary register (column 20, lines 44-47). The program then executes a subroutine which effects shedding of the lowest priority previously selected low priority load, and sets a real time counter to a value which allows sufficient time to calculate a size of the most recently shed load (column 20, lines 47-52) The program determines if all of the above "selected" low priority

loads have been shed (column 20, lines 52-54). If not, the program sheds the next lowest priority load (column 20, lines 54-56). After all "selected" low priority loads have been shed, the program executes a subroutine which fetches the most recent average power reading from the DAC table and stores it (column 20, lines 56-59).

Blackett et al. describe an electrical power management architecture including at least one intelligent electronic device ("IED") coupled with a portion of an electrical power system and further coupled with an internal network (column 1, lines 50-55). The architecture further includes a firewall, the firewall operative to securely couple an external network with the internal network (column 1, lines 55-57). In addition, the architecture includes a network interface operative to couple the IED with the internal network and facilitate a communications, initiated by the IED, of first power management data through the firewall from the internal network to the external network (column 1, lines 57-62).

Claim 1 recites a method for supplying power, the method comprising "supplying power to at least one critical device; supplying power to at least one essential device; remotely removing power to the at least one essential device while maintaining power to the at least one critical device, wherein said remotely removing power comprises remotely discontinuing power on receiving an instruction via the Ethernet to remotely remove power; and storing power supplied by at least one of a generator and a utility power source in an energy storage system when a supply of power to the at least one essential device is discontinued."

Neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest a method for supplying power as recited in Claim 1. Specifically, neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest storing power supplied by at least one of a generator and a utility power source in an energy storage system when a supply of power to the at least one essential device is discontinued. Rather, Sullivan II, et al. describe storing the most recent average power reading from a DAC table after all selected low priority loads have been shed. Applicant respectfully submit that storing the most recent average power reading does not describe or suggest storing power. The most recent average power reading is different than power. Blackett et al. describe

operatively coupling, via a network interface, an intelligent end device with an internal network and facilitating, a communications, initiated by the IED, of first power management data through a firewall from the internal network to an external network. Accordingly, neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest storing power as recited in Claim 1. For the reasons set forth above, Claim 1 is submitted to be patentable over Sullivan II, et al. in view of Blackett et al.

Claims 2 and 3 depend, directly or indirectly, from independent Claim 1. When the recitations of Claims 2 and 3 are considered in combination with the recitations of Claim 1, Applicant submits that Claims 2 and 3 likewise is patentable over Sullivan II, et al. in view of Blackett et al.

Claim 7 recites an energy management system comprising “a generation module including at least one of a utility power source and a generating power source; a first set of at least one power distribution unit remote from said generation module and communicatively coupled to said generation module, wherein at least one of said at least one power distribution unit in the first set is connected to at least one essential device; a master control system remote from said generation module and said at least one power distribution unit in the first set, said master control system communicatively coupled to said generation module and said at least one power distribution unit in the first set; and an energy storage system configured to store power supplied by at least one of said utility power source and said generating power source when said at least one power distribution unit in the first set discontinues supplying power to the at least one essential device.”

Neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy management system as recited in Claim 7. Specifically, neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power supplied by at least one of the utility power source and the generating power source when the at least one power distribution unit in the first set discontinues supplying power to the at least one essential device. Rather, Sullivan II, et al. describe storing the most recent average power reading from a DAC table after all selected low

priority loads have been shed. Blackett et al. describe operatively coupling, via a network interface, an intelligent end device with an internal network and facilitating, a communications, initiated by the IED, of first power management data through a firewall from the internal network to an external network. Accordingly, neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power as recited in Claim 7. For the reasons set forth above, Claim 7 is submitted to be patentable over Sullivan II, et al. in view of Blackett et al.

Claims 8-18 depend, directly or indirectly, from independent Claim 7. When the recitations of Claims 8-18 are considered in combination with the recitations of Claim 7, Applicant submits that Claims 8-18 likewise are patentable over Sullivan II, et al. in view of Blackett et al.

Claim 19 recites an energy management system comprising “a generation module comprising at least two power sources comprising a generator and a utility power source; at least two power distribution units remote from said generation module and communicatively coupled to said generation module, at least one of said power distribution units connected to at least one critical device, remaining of said power distribution units connected to at least one essential device; a master control system remote from said generation module and said power distribution units, said master control system communicatively coupled to said generation module and said power distribution units, said master control system configured to remotely monitor said generation module and instruct the remaining of said power distribution units connected to the at least one essential device to stop supplying power to the at least one essential device; and an energy storage system configured to store power supplied by at least one of said generator and said utility power source when the remaining of said power distribution units connected to the at least one essential device is not supplying power to the at least one essential device.”

Neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy management system as recited in Claim 19. Specifically, neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power

supplied by at least one of the generator and the utility power source when the remaining of the power distribution units connected to the at least one essential device is not supplying power to the at least one essential device. Rather, Sullivan II, et al. describe storing the most recent average power reading from a DAC table after all selected low priority loads have been shed. Blackett et al. describe operatively coupling, via a network interface, an intelligent end device with an internal network and facilitating, a communications, initiated by the IED, of first power management data through a firewall from the internal network to an external network. Accordingly, neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest an energy storage system configured to store power as recited in Claim 19. For the reasons set forth above, Claim 19 is submitted to be patentable over Sullivan II, et al. in view of Blackett et al.

Claim 20 depends from independent Claim 19. When the recitations of Claim 20 are considered in combination with the recitations of Claim 19, Applicant submits that Claim 20 likewise is patentable over Sullivan II, et al. in view of Blackett et al.

For at least the reasons set forth above, Applicant respectfully requests that the Section 103 rejection of Claims 1-3 and 6-20 be withdrawn.

Moreover, Applicant respectfully submits that the Section 103 rejection of Claims 1-3 and 6-20 is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Sullivan II, et al. nor Blackett et al., considered alone or in combination, describe or suggest the claimed combination. Furthermore, in contrast to the assertion within the Office Action, Applicant respectfully submits that it would not be obvious to one skilled in the art to combine Sullivan II et al. with Blackett et al. because there is no motivation to combine the references suggested in the cited art itself.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01.

Rather, there must be some suggestion, outside of Applicant's disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Furthermore, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Specifically, Sullivan II, et al. teach storing the most recent average power reading from a DAC table after all selected low priority loads have been shed. Blackett et al. teach operatively coupling, via a network interface, an intelligent end device with an internal network and facilitating, a communications, initiated by the IED, of first power management data through a firewall from the internal network to an external network. Since there is no teaching nor suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for this reason alone, Applicant requests that the Section 103 rejections of Claims 1-3 and 6-20 be withdrawn.

Claim 4 is objected to as being dependent upon a rejected base claim, but containing allowable subject matter if rewritten in independent form including all limitations of the base claim and any intervening claims. Claim 4 has been amended to include the recitations of independent Claim 1 and dependent Claims 2 and 3. For the reasons set forth above, Claim 4 is in condition for allowance.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Daniel M. Fitzgerald", is written over a horizontal line.

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